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BY EMAIL AND BY U.S. MAIL

Ms. Deborah Jordan
Associate Director, Air Division
U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105

Re: Cabrillo Port and Inapplicability of Ventura County APCD Rule 26

Dear Ms. Jordan:

On November 14, 2006, the Ventura County Air Pollution Control District ("APCD") submitted a letter to EPA stating that its interpretation of the Deepwater Ports Act dictates that EPA should require the Cabrillo Port to utilize Best Available Control Technology ("BACT") and to provide Emission Reduction Credits ("ERCs") for NOx and VOC pursuant to District Rule 26.2.[1] This letter specifically contradicts the Ventura County APCD staff's prior determination on this point that was voted on and approved by the APCD's board on September 14, 2005. BHP Billiton LNG International, Inc. ("BHP") has reviewed the letter that purports to justify this change in position. BHP believes that the Ventura County APCD was incorrect to overturn its prior ruling—a ruling BHP relied on for more than a year. BHP further believes that there is no legal basis for EPA to change its interpretation of the Deepwater Ports Act and the inapplicability of District Rule 26. We note that although Cabrillo Port is not subject to District Rule 26, BHP will meet or exceed all substantive requirements that would apply were Cabrillo Port subject to the full extent of District Rule 26.

Deepwater Ports Act

The Deepwater Ports Act ("DPA") regulates the permitting of all aspects of deepwater ports such as Cabrillo Port. The DPA requires that the laws of the United States be applied "as if such port were an area of exclusive Federal jurisdiction located within a State." 33 U.S.C. § 1518(a)(1). By its express terms, Section 1518(a)(1) applies federal law, including the Clean Air Act, to

[1] Cabrillo Port is the floating liquefied natural gas receiving terminal proposed for construction 14 miles off the coast of Ventura County, California.

deepwater ports and designates the responsible federal agency (in the case of the Clean Air Act, EPA) as the implementing agency. Given the unambiguous Congressional directive, the relevant federal agencies have interpreted the DPA as authorizing EPA, not states, to issue Clean Air Act permits for deepwater ports. *Memorandum of Understanding on Deepwater Port Licensing* (May 20, 2004). The DPA clearly preempts any other agency or regulatory body from having jurisdiction over the permitting of a deepwater port.

Although state and local jurisdictions have no regulatory authority over deepwater ports, certain of their regulations can apply. The DPA requires that the law of the nearest adjacent coastal state apply to any deepwater port "to the extent applicable and not inconsistent with any provision or regulation under [the Deepwater Ports Act] or other Federal laws and regulations..." 33 U.S.C. § 1518(b). EPA previously analyzed the DPA and determined that sections 110 and 118 of the Clean Air Act dictate that those local regulations incorporated into the State Implementation Plan are the regulations consistent with federal law and applicable to a deepwater port. *See*, Letter from Gerardo Rios (EPA Region 9) to Steve Meheen (BHP) (June 29, 2004). In the Rios letter, EPA also states that, depending on the facts of the situation, EPA might determine that it would be inconsistent with the Clean Air Act, or not "applicable" within the meaning of section 1518 of the DPA, to apply the nonattainment status of the onshore area to a deepwater port. *Id.* at 11. Consequently, while BHP welcomes the involvement of all parties, including the local permitting authorities, in developing comments and submitting them as part of the public comment process, nothing in the DPA provides a role for the local air pollution control district to determine how the DPA is to be interpreted and applied.

Ventura County New Source Review Rules

The heart of the local new source review rules potentially applicable to Cabrillo Port under the DPA is District Rule 26. This rule establishes the new source review requirements applicable to new sources. As local rules incorporated into the State Implementation Plan, the substantive elements of Rule 26 may be applicable to Cabrillo Port under the DPA even though Cabrillo Port is not physically located in Ventura County and the Ventura County rules were not developed with the expectation that they would apply to projects outside of Ventura County's jurisdiction.

Rule 26 has changed significantly in the last fifteen years. Rule 26, as revised in 1991, required offsets from any source with any potential to emit ROC or NOx, regardless of where that source is located. Rule 26 was changed in 1995 to reflect California statutory changes so that offsets were required only if a NOx or ROC emissions exceeded 5 tons per year. In 1997, the Ventura County APCD proposed to change Rule 26 again. District staff stated in the introduction to the staff report accompanying the rule change that "Staff is proposing to exempt San Nicolas and

Anacapa Island from nonattainment NSR because these areas are not included by the U.S.EPA in the nonattainment area of the District." The discussion section of the staff report was equally brief, stating only:

> **"6. Exempt Anacapa Island and San Nicolas Island from the nonattainment area NSR requirements**
>
> "Subsection A.2 of Rule 26.3 is proposed to be added to exempt San Nicolas Island and Anacapa Island from nonattainment NSR. These areas are not included by the U.S. EPA in the nonattainment area of the District."

Final Staff Report, Rule 26 at 5 (January 13, 1998). No further discussion of the rule revision is identified in the staff report except to state that "This proposed exemption could lower costs for the Navy." *Id* at 9.

The District also prepared an Environmental Impact Report ("EIR") for the rule revision that goes into somewhat greater detail than the staff report. The EIR describes the proposed rule revision as:

> "3) Exempt San Nicolas and Anacapa Island from nonattainment NSR because these areas are not included by the EPA in the nonattainment area of the District and therefore are not subject to federal NSR requirements."

Final EIR; Rule 26—New Source Review at 8 (Dec. 18, 1997). The discussion section of the document is more extensive. The wording of the EIR discussion is presented in its totality below:

> "4.2.1.3 San Nicolas and Anacapa Island
>
> "APCD staff is proposing to exempt San Nicolas Island and Anacapa Island from nonattainment NSR. The EPA has determined these two islands, which are part of Ventura County and within the District's jurisdiction, to be separate from the Ventura County ozone nonattainment area.
>
> "The proposed revision will relieve new sources and modifications to existing sources on Anacapa Island and San Nicolas Island from current nonattainment new source review requirements. The EPA formally informed the District in a December 5, 1996, letter that Anacapa Island and San Nicolas Island are not

part of the Ventura County federal ozone nonattainment area. Therefore, the islands should be exempted from the federal nonattainment new source review requirements.

"The only source of emissions on either of these islands is the Navy. On San Nicolas Island the Navy has a permit for several internal combustion engines used to generate electricity, a waste incinerator, and a small gasoline dispensing facility. Permitted emissions associated with this equipment is approximately 11 tons per year of ROC, 150 tons per year of NOx, and 12 tons per year of Particulate Matter, 4 tons per year of SOx, and 34 tons per year of CO.

"Under the new proposal, any modifications to the existing facility or any new facility on the islands would be exempt from nonattainment new source review requirements. However, federal PSD requirements will continue to apply. Under the PSD program, sources with potential emissions of 250 tons per year (tpy) or more (or 100 tpy or more for certain source classes) are defined as major sources. If the facility is a major source, emission increases at the source are reviewed to determine if the increase is considered significant. Significance is determined by the pollutant thresholds identified in Table 4-2 (except for CO, which has a significance threshold of 100 tpy under PSD). Once a source is determined to be significant, BACT is required.

"It is possible in the future that the Navy might need to add or make modifications to its existing equipment. Therefore, the proposed rule revision could allow additional emissions. However, any modifications to existing equipment are expected to be minimal increases in emissions, because most of the equipment is used to provide electricity for the limited number of personnel on San Nicolas Island. Given the location of the islands and their limited infrastructure, it is unlikely that any new source would locate on the islands while under Navy ownership. It is anticipated that any associated emission increase would be small and that it would not have a project specific or cumulatively significant impact on air quality."

Id. At 31-32. The key fact gleaned from the rulemaking and EIR materials is that the District intended to differentiate between those portions of the County within the federal ozone nonattainment area and those portions of the County outside the federal ozone nonattainment area. Sources locating on or near the onshore portions of the County were required to obtain

offsets and apply BACT while sources locating offshore were not required to either install BACT or supply offsets.

The EIR mentions that expected modifications in the offshore portions of Ventura County were expected to be minimal, but the concept of limiting the usage of the exemption was not incorporated into the rule. While there was passing mention in the EIR of a belief that no new sources would locate on San Nicolas Island during Navy ownership, the exemption was not limited to utilization by the Navy, leaving any non-Navy source free to utilize the exemption if it obtained permission from the Navy or the Parks Service to locate on one of the islands. In addition, no limitation was imposed on the Navy's ability to expand its operations on San Nicolas Island in reliance on the exemption.

The Navy has relied upon the Rule 26.3 exemption and avoided the significant costs that would otherwise be associated with their substantial emission increases. The Navy's permitted emission units when Rule 26 was modified in 1998 consisted of only the following emission units:

- Six internal combustion engine ("ICE") power plant generating units rated from 720 bhp to 1,440 bhp, limited to 642,6000 gal/year of JP5 fuel;
- One gas compressor ICE (80 bhp), fueled on propane;
- One emergency back-up ICE rated at 375 bhp; and
- One waste incinerator.

Between 1999 and 2003, the Navy utilized the new Rule 26 exemption to install the following equipment at the San Nicolas Island facility:

- 17 emergency back-up ICEs ranging from 61 bhp to 1220 bhp;
- One new power plant generating unit rated at 2220 bhp;
- Increase in annual JP5 fuel consumption for the power plants to 718,845 gallons;
- Two 417 bhp ICEs;
- Four 65 bhp gasoline ICEs for airstrip operations; and
- One 15,000 gallon gasoline underground storage tank.

The NOx emissions increases from this additional equipment had a profound effect on the facility's potential to emit. Between 1998 and 2005, the permitted NOx emissions alone increased by 56.4 tons per year (from 150.9 to 207.3 tons per year). None of these 56.4 tons of NOx were subject to the offset requirement and none of the equipment installed had to comply

with BACT. However, there was no objection by Ventura County APCD staff or the Board. Nor has there ever been any suggestion that this was a violation of the Rule 26.3 exemption based on the statement in the EIR that increases were not necessarily anticipated. If any objections had been raised, they would have been summarily dismissed as the wording of the exemption is clear. Obviously, there would have been no reason to add an exemption if it was not expected to be used and nor would the Ventura County APCD have stated in the 1998 Staff Report that "This proposed exemption could lower costs for the Navy" if there was any thought that the Navy would not be allowed to use the exemption.

Against this backdrop of the Rule 26 regulatory history, we now turn to the November 14, 2006 letter to you from the Ventura County APCD.

Ventura County APCD Letter of November 14, 2006

By letter dated June 29, 2005, Amy Zimpfer informed the Coast Guard that BHP was not required to provide offsets for Cabrillo Port. The basis for this decision was EPA's recognition that the Ventura County APCD rules are different for sources locating in the onshore portions of the County versus sources locating in the offshore portions of the County. Sources locating in the offshore portions of the County are not required to provide offsets. Cabrillo Port will be located offshore. As such, EPA concluded that it should be treated as an offshore source under the Ventura County APCD rules. As the offset requirements do not apply in those portions of Ventura County, EPA concluded that offsets were not required. Nonetheless, EPA reached an agreement with BHP whereby BHP committed to both utilize BACT and to mitigate the Cabrillo Port emissions.

EPA's interpretation of the how to apply the substantive provisions of the Ventura County APCD rules under the DPA was extensively discussed with the air district staff in 2005. Ventura County APCD staff took part in multiple meetings with EPA and BHP where this was discussed. The Ventura County APCD staff ultimately prepared a letter to the Ventura County APCD Board outlining EPA's approach. EPA's approach was considered by, voted on and approved by the Ventura County APCD Board at its meeting on September 14, 2005. No comments were submitted by the Ventura County APCD during the permit's public comment period suggesting any disagreement with this approach.

It was not until well after the close of EPA's public comment period on Cabrillo Port's draft air permit that Ventura County APCD staff were first heard to complain about EPA's interpretation. Staff indicated that they were under significant pressure to change the APCD's position. That is, we understand that the Ventura County APCD staff were heavily lobbied by a group opposing

the project to withdraw their previous position based on the statement in the EIR quoted above that it was not anticipated that the Rule 26.3 exemption would actually be relied upon or used once it had been added to the rules. We further understand that the opponent argued that the exemption should not be applied because Cabrillo Port would not be located on either Anacapa Island or San Nicolas Island. Shortly after we learned of this opponent's lobbying effort, two members of the Ventura County Board of Supervisors issued a letter and accompanying press release quoting the same arguments and demanding that the Ventura County APCD staff change their prior opinion.[2]

Against this backdrop, the Ventura County APCD Control Officer prepared a letter to you indicating that the District wanted to change its stance on how Rule 26 should be applied to Cabrillo Port under the DPA. During the November 14, 2006 Ventura County APCD Board meeting, the Control Officer placed his letter before the Board members and they were asked to vote on it. We understand that the only Board member and asked for their ratification of his new interpretation of Rule 26 as being applicable to Cabrillo Port. After a confusing discussion—frequently based on inaccurate "facts"—the Board authorized the Control Officer to send his letter to EPA.

BHP is understandably concerned that the Ventura County APCD has changed its original position agreeing with EPA's application of the Clean Air Act based on the comments of a third party opponent. However, BHP is more concerned that the Ventura County APCD seems to be arguing that it has independent authority to interpret the DPA. EPA's lead role in interpreting and applying the Clean Air Act under the DPA is well established and Ventura County has no legal basis to question EPA's lead role. EPA is vested with its lead agency authority so that we have a national policy on application of the Clean Air Act under the DPA and a California county simply does not have the legal right to assert special authority under the DPA.

BHP is also concerned that the Ventura County APCD seems to disregard the importance of the public comment period in assuring an applicant due process. Mr. Villegas acknowledges in his letter that the air district has been heavily involved in discussions with EPA since the inception of the Cabrillo Port permitting process. This culminated in the Ventura County APCD Board's September 2005 consideration of and concurrence with EPA's regulatory interpretation of the DPA as it pertains to Cabrillo Port. The Ventura County APCD remained engaged with EPA after September 2005, but was focused on mitigation. Ventura County was not questioning the EPA's interpretation of the DPA during this timeframe. The public comment period was

[2] Interestingly, neither of these Board members objected to endorsing EPA's interpretation when it was explained to them in detail in September 2005.

extended to August 3rd and the air district had ample opportunity to prepare its comments. The district cannot now be heard to offer "additional comments" on EPA's interpretation of the DPA after the close of the extended comment period, particularly when the district had affirmed its agreement with EPA's interpretation of the DPA some 15 months before and had never questioned the correctness of EPA's interpretation at any point during the process

Ventura County Analysis

In its November 14, 2006 letter, the Ventura County APCD fails to provide a credible legal argument for changing its September 15, 2005 decision that EPA is appropriately applying the Rule 26.3 exemption to Cabrillo Port. As a threshold matter, it is interesting that the letter speaks little to how Rule 26 applies to sources in Ventura County—the aspect of the permitting process in which the Ventura County APCD staff have been regularly consulted by EPA. Instead, the letter attempts to tell EPA how the DPA and the federal Clean Air Act should be interpreted. This is an interesting attempt to usurp EPA's exclusive jurisdiction to interpret those statutes and to determine how they apply to Cabrillo Port.

The Ventura County APCD letter largely repeats facts and legal conclusions that are beyond dispute and then, without further analysis, states that this means that Cabrillo Port must be regulated as an onshore source. The Ventura County APCD letter outlines its argument for why Cabrillo Port should be regulated as an onshore source rather than an offshore source through a series of eight points starting on page 3 of the November 14 letter. We address each point in the order presented.

The first point identified as supporting the regulation of Cabrillo Port as an onshore source consists of a largely irrelevant recitation of the canons of statutory interpretation. This boilerplate list of cases stands for the proposition that if the words of a statute or regulation are clear, then it is inappropriate to look at the regulatory history. A fine example of the application of this maxim is that if an exemption is written into the rules clearly stating that sources located on an island are exempt from new source review, it is inappropriate to look at the rulemaking history to add unstated restrictions to that rule. We do not dispute these concepts of regulatory interpretation.

The second and third points in the November 14 letter simply outline the basic, and undisputed, characteristics of how the DPA works. In the second point of the letter, the Ventura County APCD states that the FSRU is a "new source." The third point in the November 14 letter is that the Ventura County new source review program is applicable to Cabrillo Port via the DPA. These points are not in dispute. The only question is how the substantive elements of the

Ventura County APCD rules are applied under the DPA to a source located outside of Ventura County and never contemplated by the drafters of the Ventura County APCD rules.

The fourth point in the letter is where the Ventura County APCD unsuccessfully attempts to find a justification in law for the political goal of requiring Cabrillo Port to be regulated as an onshore source. In this point the letter meanders through multiple thoughts. At first, the author candidly acknowledges that EPA has the discretion to decide whether Cabrillo Port should be regulated as an onshore or an offshore source. The author then states that Cabrillo Port should be regulated as an onshore source because "the present facts and circumstances of this Project justify treating this source as if it were located within the onshore ozone nonattainment area..." The letter fails to identify what these "present facts and circumstances" are, other than to note that there is case law supporting California's authority to regulate fishing boats that come closer than three miles to its coastline. The letter also infers that Congress' treatment of Outer Continental Shelf ("OCS") sources is somehow relevant. However, Cabrillo Port is not an OCS source and, notwithstanding Congress having been keenly aware of the OCS statute, Congress declined to extend the OCS air permitting requirements to deepwater ports when it enacted the DPA. Given Congress' clear choice not to adopt the OCS approach, both when it enacted the DPA in 1974 and then in subsequent amendments, there is a clear indication that Congress did not want to require offsets. Therefore, the OCS statutory structure is irrelevant in applying the DPA. While the author's desired interpretation of the DPA is clear in the fourth point of the letter, no legal basis is presented for why that outcome is consistent with the statute.

The fifth and sixth points go on to state more points over which there is common agreement. In the fifth point the author states that California is the adjacent coastal state for purposes of the DPA. Associated with this conclusion is a restatement of the EPA finding that it would consider the Ventura County APCD rules for determining the substantive permitting requirements applicable to Cabrillo Port. The author also notes that the federal Clean Air Act directs EPA to protect the nation's air resources and that the DPA and Clean Air Act should be interpreted consistently. We do not believe that there is any disagreement over these points, but nor do we see the relevance of them to the author's ultimate conclusion.

The seventh and eighth points suggest a fundamental misunderstanding on the part of the Ventura County APCD of both the DPA itself and EPA's interpretation and application of the DPA. In the seventh and eighth points the author criticizes EPA for its alleged "unilateral designation of the area where the deepwater port Project is located for air permitting purposes." This objection is an odd one in that EPA has consistently acknowledged that the area where Cabrillo Port is proposed to be located is outside any current designation and EPA has never suggested that the area had a designation. We are unaware of EPA having ever suggested that it

was designating the area where Cabrillo Port will be located. Instead, EPA assessed whether the project was being located in an area more like the offshore attainment portions of Ventura County or more like the onshore nonattainment portions of Ventura County. Given that Cabrillo Port will be located essentially the same distance from shore as Anacapa Island and that the Cabrillo Port emissions will be blown in the same direction as those from Anacapa and San Nicolas Island (i.e., predominantly parallel to the Ventura County coastline), EPA concluded that it was logical to apply the rules applicable to other offshore sources located in Ventura County.

We find the conclusion of the eighth point to be particularly disingenuous and to emphasize that the November 14th letter is the result of a politicized local decision making process rather than reasoned analysis. At the end of the eighth point the author states that the air quality impact of the 207.3 tons per year of permitted NOx emissions from San Nicolas Island will have less impact to the Ventura County mainland than the 76 tons per year of permitted Cabrillo Port NOx emissions. This statement misses the mark for several reasons. First, the threshold analysis of whether Cabrillo Port is more like an onshore source or an offshore source is without regard to emission levels. Second, in front of his Board the letter's author flatly contradicted this statement when he noted that the predominant downwind area from Cabrillo Port is not Ventura County. This point was documented by the extensive modeling performed by the project using offshore meteorological data. In short, we believe that this point misstates the facts and belies the lack of reasoning underlying the air district's letter.

After making these eight points the author takes a different, but equally unconvincing, run at arguing that District Rule 26.3 does not apply to Cabrillo Port. The District letter once again returns to the argument that the Rule 26.3 exemption should not apply to Cabrillo Port because the exemption was not written to include deepwater ports and the exemption should be construed narrowly. We have no disagreement with the maxim that exemptions are to be construed narrowly and were Cabrillo Port located somewhere within Ventura County other than Anacapa or San Nicolas Islands then we would agree that the exemption should not be read to incorporate the project. However, as Mr. Villegas candidly admitted to his Board on November 14th, the District Rule 26 requirements were written exclusively to address sources located within the County. The DPA mandates that EPA take regulations written for sources within the County and determine how to apply them to a source outside the County. When, as here, the County regulations vary depending on where the source is located, EPA must determine the location in the County that is most similar to the DPA project's location. Here, EPA concluded that Cabrillo Port was most like a source being sited on Anacapa Island or San Nicolas Island. Based on that conclusion, the air district's rules dictate that Cabrillo Port is not subject to Rule 26. That conclusion is not an expansion of the County regulation, it is the direct application of the County regulation. It is also consistent with the position Mr. Villegas took before his Board on

November 14th when he stated that the rationale for exempting the offshore portions of the County was "why would you apply a nonattainment rule in an attainment or unclassified area?"[3] It is unfortunate that the politicized environment surrounding the permitting of Cabrillo Port are such that Mr. Villegas did not recognize that he was sending a letter that directly conflicts with what he told his Board.

The November 14th letter is clear in its conclusions but surprisingly devoid of legal arguments supporting those conclusions. The rationale boils down to a misunderstanding of EPA's actions and the way in which the DPA works. In this regard, we encourage EPA to expand the discussion of the logic underlying its determination that the DPA supports regulating Cabrillo Port as a new source located in one of the offshore areas of the County.

Cabrillo Port Compliance With New Source Review Requirements

Although BHP is not required to comply with the Rule 26 requirements, BHP is actually doing more than would be required did Rule 26 apply. As was confirmed by Mr. Villegas in the November 14 Board hearing, BHP is implementing BACT for Cabrillo Port.[4] In addition, BHP has committed millions of dollars to generating offsets that will benefit Southern California air quality for decades to come. The leading source of NOx emissions in the South Central Coast Air Basin is marine vessels. BHP recognized the importance of controlling such emissions and has entered into contracts to repower the engines on two marine tugs that have pumped hundreds

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[3] The full statement before the Board was:

> "Someone asked the question of Dick Baldwin, 'Is San Nicolas Island part of the nonattainment area' and so he posed the question to EPA and EPA made a determination that it was not part of the nonattainment area. Now the interesting thing is that new source review is a rule that applies to nonattainment areas. The underlying rational is why would you apply a nonattainment rule in an attainment or unclassified area and that was the legal justification for exempting the two islands."

[4] Mr. Villegas stated in response to a question from one of the Board members as to whether EPA had proposed BACT for Cabrillo Port:

> "I had talked with my permit staff yesterday on this determination and they believe that what's been proposed is either BACT or extremely close to it."

of tons of NOx, ROC and diesel particulate into Southern California's air for dozens of years. BHP has contracted to fund the replacement of the engines on these tugs generating the following emission reductions along the California coastline:

Tug Repower Emission Reductions				
Vessel	NOx	PM_{10}	CO	ROC
Klihyam	97.6	3.9	35.1	12.8
Pacific Falcon	67.9	5.4	31.3	16.9
Total:	**165.5**	**9.3**	**66.4**	**29.7**

Although BHP is not subject to the offset requirement, it is providing substantially more NOx reductions than would be required under Rule 26. The stationary source emissions that are being permitted by EPA total 75.9 tons per year of NOx. If offsets were required under Rule 26, BHP would have to provide 98.7 tons of reductions. BHP is far exceeding this level. BHP is not providing as many tons of ROC reductions as would be required under Rule 26, but the excess of NOx reductions would more than make up for any shortfall in ROC reductions given that NOx is the more potent contributor to ozone formation. As you know, in the one situation where tugs were repowered in order to generate ERCs for the Otay Mesa project in the San Diego APCD, EPA concluded that tug engines are so long lived that the repowering of tugs is considered to generate a permanent reduction akin to controlling an onshore stationary source. See, *Letter from EPA Region 9 to San Diego APCD re Use of Mobile Source Emission Reduction Credits* (March 14, 2000). This conclusion makes sense given that the marine diesel engines that BHP is replacing range from 25 to nearly 49 years old. The beauty and curse of marine diesel engines is that they run for decades. Therefore, while BHP is not subject to the offset requirement, it has provided substantially more emission reductions than would be required were the project subject to Rule 26. BHP is proud of these emission reductions as well as all the mitigation measures built into the project. It is striking that Mr. Villegas stated to his Board on November 14th that the application of Rule 26 to Cabrillo Port "may or may not be the best outcome for Southern California's air quality." BHP's proposed mitigation package is clearly good for Southern California's air quality.

In closing, the November 14th letter from the Ventura County APCD presents no compelling arguments for EPA changing its position that the DPA dictates that Cabrillo Port should be permitted the same as a new source being located in an offshore portion of Ventura County. Nonetheless, while Cabrillo Port is not subject to Rule 26, BHP has committed to implementing BACT and funding emission reductions that will ensure the air quality in Southern California is better as a result of this project.

We appreciate your consideration of this letter. Please contact me regarding any questions.

Sincerely,

Thomas R. Wood

cc: Amy Zimpfer
Margaret Alkon
Mike Villegas
Renee Klimczak